

REMARKS/ARGUMENTS

Claims 1 through 36 have been canceled without prejudice.

Priority

In his office action dated June 6, 2003 the Examiner stated that instant application claims priority to U.S. Application serial number 60/365,005 filed March 13, 2002. The Applicant respectfully asserts that the Examiner may have confused the present case with another similar case by the same applicant.

The present case, U.S. Application Serial number 09/839,289, does not claim priority to any earlier filed patent application of provisional application. The case was originally filed as a United States Utility application on April 20, 2000.

Claim Rejections – Under 35 USC §103

Claim 36 was cancelled in view of the Examiner 35 U.S.C. 102 (e) rejection of record.

New Claims

New claims 37 and 38 directed to a method for stimulating neurogenesis using 4-[3-(4-oxo-4,5,6,7-tetrahydroindolon-1-yl)-propionylamino]benzoic acid ethyl ester or 4-[3-(4-oxo-4,5,6,7-tetrahydroindolon-1-yl)-propionylamino]benzoic acid have been added and are patentably distinct from any disclosure in the cited prior art (2002/0040031, hereinafter '031). The '031 publication does not disclose nor suggest that the presently claimed tetrahydroindolone derivatives would be useful in stimulating neurogenesis. Furthermore, the present application fully supports the claims directed at stimulating neurogenesis using the claimed compounds. See for examples page 21 at paragraph 0060 through page 22 paragraph 0065. Also note that the term "effective amount" is also fully disclosed and explained in detail at paragraph 0065. Further support for claim

37 can be found in the specification at pages 26 and 27, paragraphs 0079 through 0086. Specifically, Examples 1, 2 and 3.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

The Commissioner is authorized to charge any fee which may be required in connection with this Amendment to deposit account No. 50-1329.

Respectfully submitted,

Dated: 12/2/03


Louis C. Cullman

Registration No. 39,645

CUSTOMER NUMBER: 31,278

STRADLING YOCCA CARLSON & RAUTH
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660
Telephone: (949) 725-4000
Facsimile: (949) 725-4100